



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,520	09/17/2003	Eric A. Harrah	3087-46	4301

7590 05/06/2005

C. David Emhardt
Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower, Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

EXAMINER

OMGBA, ESSAMA

ART UNIT	PAPER NUMBER
----------	--------------

3726

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/664,520	HARRAH, ERIC A.	
	Examiner	Art Unit	
	Essama Omgba	3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the invention of Group II, claims 6-9 in the reply filed on March 23, 2005 is acknowledged. The traversal is on the ground(s) that claims 1-9 could be examined together without imposing an undue burden on the examiner. This is not found persuasive because as outlined in the restriction the two inventions are distinct as shown by their different classifications and the search of one group is not required for the other group, therefore searching both groups would impose an undue burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. Claims 1-9 are objected to because of the following informalities: in claim 6, semicolons (;) should be inserted at the end of lines 4 and 5, similar corrections should be made in claims 8 and 9 including inserting a colon (:) after "comprises" in line 2 of claim 9; and in claim 8, line 4, "strap" should read --hook--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the nose of a lifting jack" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitations "the remaining wheels", "the lug nuts", and "the nose of the lifting jack" in lines 3-6. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broichhausen (DE 4307207).

With regards to claim 6, Broichhausen discloses a method for lifting a wheel of a vehicle, the wheel having openings therein wherein a U-shaped bracket 7 is provided on a nose of a lifting jack 5 with a steel bar secured to the bracket and a hook 2 secured to the rod, and the hook is hooked on an opening of the wheel and the jack is cranked to lift the wheel, see abstract and figures 1 and 2. Although Broichhausen discloses a steel rod as opposed to a strap, however it would have been obvious to one of ordinary skill

Art Unit: 3726

in the art at the time the invention was made that the steel rod of Broichhausen is structurally equivalent to the claimed strap. Applicant should note that the U-shaped bracket of Broichhausen could be considered to have a downwardly opening depending on the direction of reference.

For claim 7, see figure 2.

For claim 8, see figures 1 and 2.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broichhausen in view of Molinari (US Patent 4,042,202).

With regards to claim 9, Broichhausen discloses a method for lifting a wheel of a vehicle, the wheel having openings therein wherein a U-shaped bracket 7 is provided on a nose of a lifting jack 5 with a steel bar secured to the bracket and a hook 2 secured to the rod, and the hook is hooked on an opening of the wheel and the jack is cranked to lift the wheel, see abstract and figures 1 and 2. Although Broichhausen does not disclose using jack stands under the vehicle after having cranked the jack to lift the vehicle, however it is known to use jack stands in conjunction with wheel jacking devices for supporting a vehicle as attested by Molinari, see column 1, lines 9-25.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used jack stands in the method of Broichhausen, in light of the teachings of Molinari, as is known in the art. Applicant should note that the various recited method steps are conventional in the art. Also the steel rod of Broichhausen is structurally equivalent to the claimed strap. Applicant should also note that the U-

Art Unit: 3726

shaped bracket of Broichhausen could be considered to have a downwardly opening depending on the direction of reference.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F (10-7:30) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/664,520
Art Unit: 3726

Page 6

A handwritten signature in black ink, appearing to read 'Essama Omgba', written in a cursive style.

Essama Omgba
Primary Examiner
Art Unit 3726

eo
April 29, 2005